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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,481	11/14/2005	Christopher Malyszewicz	76241.010500	1232

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EXAMINER	
HARDEE, JOHN R	

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
11/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/556,481	MALYSZEWICZ, CHRISTOPHER	
	Examiner	Art Unit	
	JOHN R. HARDEE	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *35-64,66 and 68* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *35-64, 66 and 68* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 35-64, 66 and 68 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6, 8-11 and 13-23 of copending Application No. 11/054,474. Although the conflicting claims are not identical, they are not patentably distinct from each other because the '474 recites a composition comprising at least one alcohol, at least one long chain polyamine and at least one halogen; wherein the long chain alkyl polyamine compound comprises a triamine or a tetramine. Dependent claims recite the same limitations as do the present claims. Accordingly, the claims of the '474 anticipate the present claims. Anticipation is the epitome of obviousness.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 35-64, 66 and 68 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-40 of copending Application No. 11/569,287. Although the conflicting claims are not identical, they are not patentably distinct from each other because the '287 recites compositions having the same limitations, except that the compositions are recited as being skin cleaning compositions. Accordingly, the claims of the '287 anticipate the present claims. Anticipation is the epitome of obviousness.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 35-64, 66 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggensperger et al., US 5,276,047 in view of Ofusu-Asante et al., US 6,387,856 for the reasons of record in the previous office action. Applicant's broadening of the claim scope does not overcome the reference or further prosecution.

Response to Arguments

6. Applicant's arguments filed October 6, 2008 have been fully considered but they are not persuasive. Applicant argues that the composition recited by applicant would not be obvious to the person of ordinary skill in the art because it would be necessary to pre-mix iodine with amphoteric surfactant, and this need to premix would deter the artisan in favor of something which results in a less complex process. The examiner respectfully submits that 1) complication is in the eye of the beholder, 2) premixing is a notoriously common expedient, and mixing tanks are ubiquitous in chemical plants and, 3) complicated or not, making and adding such a premix is motivated by a reasonable combination of the references.

Applicant further argues that the '047 reference discloses that additives such as nonionic, cationic and/or anionic surfactant may be added, but that the use of amphoteric surfactants is not disclosed. This is not persuasive because the '047 reference motivates the addition of other disinfectants to its hard surface cleaners, and the secondary reference teaches that the iodine/amphoteric complex is a useful disinfectant in hard surface cleaners. Mention of amphoterics in the '047 is not necessary to reasonably find motivation in the combination of references.

Applicant further argues that the amounts of surfactant disclosed in the two references is non-overlapping. This is not persuasive because the secondary reference is relied upon for its teaching of a specific disinfectant, not for the amount of surfactant in the compositions taught therein. The examiner maintains his position that

compositions as recited can be made by following teachings which can be fairly inferred from a combination of the cited references.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Mr. Harold Pyon, may be reached at (571) 272-1498.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John R. Hardee/
Primary Examiner
November 5, 2008